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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Hon. Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: Ex Parte ET Docket No. 00-258

Dear Mr. Chairman:

We were gratified to see the following quote attributed to you during your recent speech at Supercomm: "Uncertainty increases risk and places a cloud over the marketplace . . . and a decision too late is no decision at all. . . . With financial markets affected by uncertainty of regulations, [the] FCC must make decisions quickly to stabilize markets . . ." *Communications Daily*, June 6, 2001, at 2.

The undersigned parties agree wholeheartedly with your views. As the Commission considers a Further Notice of Proposed Rulemaking ("FNPRM") in ET Docket No. 00-258, we write to ask that the Commission add a Report and Order to the FNPRM that would remove the MDS/ITFS bands from further consideration. The regulatory delays created by this proceeding have caused and will continue to cause great and needless harm to education and fixed broadband deployment.

We have been dealing with the impact of 3G-related regulatory uncertainty for some time. Not surprisingly, the regulatory cloud cast by possible reallocation of MDS/ITFS spectrum has slowed the deployment of many fixed broadband systems that otherwise would be extending broadband into unserved areas, providing much-needed competition to the cable modem and DSL services, and providing America's educational community with access to innovative two-way networks. Many commercial fixed wireless operators are finding that this regulatory uncertainty has cast a chill over the capital markets, preventing access to necessary new investment. Some vendors are diverting their research and development funding from fixed wireless broadband to other projects in light of the possible reallocation of the MDS/ITFS spectrum. And, while the educational community is forced to divert scarce resources to fight a regulatory battle in Washington, America's children are being denied access to the services the educators are planning to provide over the shared commercial/educational broadband networks envisioned by the Commission's MDS/ITFS policies.

The record compiled in this proceeding strongly supports the requested action. On March 31, 2001, after months of intensive analysis and study, the FCC staff issued a Final Report in ET Docket No. 00-258 which demonstrates conclusively that no portion of the MDS/ITFS bands should

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be reallocated for 3G. In addition to the very compelling findings in the Final Report, the record demonstrates that these bands are not the preferred bands for 3G services. There is ample spectrum that can be used for launching 3G services, including the existing cellular and PCS allocations, ESMR spectrum, the 1710-1755 MHZ band, the 2110-2145 MHZ band, and the spectrum to be recaptured in the 700 MHZ band from broadcasters.

We urge you to act now on the sentiments you expressed at Supercomm, and end the needless delay, expense and uncertainty created by this proceeding. We urge you to issue a Report and Order removing the MDS/ITFS bands from further consideration as candidate bands for 3G services.

We have been in touch with your office seeking to schedule an appointment with you so that representatives of the undersigned (both educational and commercial) can discuss this matter with you. To our knowledge, you have thus far not met with anyone from our communities about this proceeding.

In accordance with Section 1.1206 of the Commission's rules, an original and a copy of this letter are being submitted to the Secretary's office for inclusion in the record of this proceeding.

Sincerely,

American Association of Community Colleges
American Council on Education
American Association of School Administrators
Association of Educational Service Agencies
Catholic Television Network
National ITFS Association
National Rural Education Association
Network for Instructional TV
Nucentrix Broadband Networks, Inc.
Wireless Education Broadband Now

cc: Peter Tenhula